

APPEAL NO. 010376

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 30, 2001. The hearing officer resolved the sole issue at the CCH by determining that the respondent's (claimant) compensable injury of _____, did extend to and include bilateral carpal tunnel syndrome (CTS). The appellant (carrier) appeals on sufficiency grounds and requests reversal. The claimant responds and requests that the Appeals Panel affirm the decision and order of the hearing officer.

DECISION

Affirmed.

The hearing officer did not err in concluding that the claimant's compensable injury of _____, extended to and included bilateral CTS. The claimant testified that he had no problems with his wrists or hands prior to _____, when he lifted many boxes and injured his neck and right shoulder. Approximately two months after the injury, the claimant was diagnosed with bilateral CTS, which was confirmed by diagnostic tests, including an EMG. The claimant's treating doctor, Dr. K, testified that bilateral CTS is caused by repetitive movement over time, causing inflammation and pressure in the carpal tunnel. Dr. K further testified that, in this instance, the discrete, traumatic lifting injury suffered by the claimant on _____, resulted in the manifestation of the claimant's symptoms from his bilateral CTS.

The carrier argued that the claimant cannot say that he suffered both a discrete, traumatic lifting injury and a repetitive trauma injury (here, CTS) on the same day, particularly if the claimant does not raise the repetitive trauma injury claim as an occupational disease. The fact that the claimant claimed a discrete trauma injury does not preclude him from arguing that his injury on _____, extended to and included bilateral CTS, commonly claimed as an occupational disease.

For a discussion of the issue of specific injury, vis-a-vis repetitive trauma injury, see Texas Workers' Compensation Commission Appeal No. 992343, decided December 6, 1999; Texas Workers' Compensation Commission Appeal No. 992851, decided January 28, 2000; Texas Workers' Compensation Commission Appeal No. 000483, decided April 14, 2000; and Texas Workers' Compensation Commission Appeal No. 000357, decided March 30, 2000.

Pursuant to Section 410.165(a) of the 1989 Act, the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.).

This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). This tribunal will not upset the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not find them so here.

For these reasons, we affirm the hearing officer's decision and order.

Philip F. O'Neill
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge